

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 L-03 SS-15
NSC-05 /053 W

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R 110600Z APR 77

FM AMEMBASSY WARSAW

TO SECSTATE WASHDC 7518

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EO 11652N/A

TAGS: EAIR PL

SUBJ: CIVAIR: PROPOSED WORLD AIRWAYS CHARTERS

REF: A. STATE 74236, B. WARSAW 2196, C. WARSAW 2061

1. SUMMARY: THE IMPASSE BETWEEN WORLD AIRWAYS (WA) AND THE CENTRAL CIVIL AVIATION ADMINISTRATION (CCAA) CONTINUES. THE POLES ARE UNWILLING TO PERMIT SPECIAL CUSTOMS PROCEDURES FOR FLIGHTS OF 250 PERSONS SINCE THEY FEEL THAT THIS WOULD CREATE A PRECEDENT FOR OTHER CARRIERS. WA OFFICIALS HAVE TOLD US THAT THEY WOULD CONSIDER ANYTHING SHORT OF PERMISSION TO LAND FULL CHARTER FLIGHTS AS DISCRIMINATORY. THEY SAID THE NATIONAL AIR CARRIERS ASSOCIATION HAD ALREADY WRITTEN TO THE CAB AND THE DEPARTMENT TO REQUEST ACTION AGAINST LOT CHARTERS. WE WOULD APPRECIATE BEING ADVISED WHAT REVIEW STEPS MIGHT BE UNDERTAKEN IN WASHINGTON. END SUMMARY.

2. AN EMBASSY OFFICER SPOKE WITH MR. HUGHES OF THE WA LONDON OFFICE AND WITH DEPUTY DIRECTOR ZYLICZ OF THE CCAA ON APRIL 6 AND 7. THE POSITIONS OF THE PARTIES APPARENTLY HAVE NOT CHANGED. ZYLICZ SAID THE CCAA CAN PERMIT NEITHER WA NOR ANY OTHER CARRIER TO LAND MORE THAN 190
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PASSENGERS PER PLANE. TO GRANT SUCH PERMISSION, HE SAID, WOULD ESTABLISH A PRECEDENT. ZYLICZ SAID THAT THE POLES IN JULY 1976, HAD NOTIFIED ALL CARRIERS OPERATING FLIGHTS TO POLAND THAT IT WOULD NOT PERMIT PLANES WITH CAPACITIES OF GREATER THAN 190 PASSENGERS TO LAND DUE TO AIRPORT CONGESTION. (NOTE: WA WAS NOT OPERATING TO POLAND AT THAT TIME AND WAS NOT NOTIFIED.) HE SAID

THIS POLICY WAS BEING APPLIED TO ALL COMPANIES. ZYLICZ SAID THAT AIR FRANCE HAD BEEN REFUSED PERMISSION TO LAND THE AEROBUS. AIR FRANCE HAD OFFERED TO LIMIT THE NUMBER OF DISEMBARKING PASSENGERS TO 190, WITH ADDITIONAL TRANSIT PASSENGERS DESTINED FOR MOSCOW TO BE INCLUDED. ZYLICZ SAID THIS ALTERNATIVE HAD BEEN TURNED DOWN DUE TO THE CONGESTION PROBLEM. HE SAID THE CCAA HAD DENIED REQUESTS BY OTHER CARRIERS TO USE STRETCH DC-8S AND SAID HE WOULD PROVIDE SPECIFICS ON THESE CASES. ZYLICZ REPEATED THAT THE CCAA HOPES TO MAKE ARRANGEMENTS TO PERMIT LARGE CAPACITY CHARTERS TO LAND IN 1978.

3. ZYLICZ SAID HE HAD SPOKEN WITH HUGHES BRIEFLY ON APRIL 7. HE WAS AWARE THAT THE NATIONAL AIR CARRIERS ASSOCIATION HAD REQUESTED THE CAB AND THE DEPARTMENT TO PLACE LOT'S US CHARTERS ON A PRIOR-APPROVAL BASIS AND POSSIBLY TO TAKE OTHER STEPS AGAINST LOT CHARTERS. HE SAID THE CCAA WAS CONFIDENT ITS POLICY COULD BE DEFENDED AS NON-DISCRIMINATORY. ZYLICZ SAID THAT DENIAL OF PERMISSION FOR LOT TO FLY CHARTERS TO THE US WOULD UNDER POLISH REGULATIONS REQUIRE THE CCAA TO TAKE RECIPROCAL ACTION AGAINST PAN AM AND ANY OTHER US CARRIERS. (NOTE: WE HAVE CALLED THIS POSSIBILITY TO THE ATTENTION OF THE LOCAL PAN AM OFFICE.) HE ALSO OFFERED TO MEET WITH HUGHES ON APRIL 8 OR 9 IN WARSAW TO DISCUSS THE APPLICATIONS, BUT HUGHES COULD NOT ACCEPT.

4. MR. HUGHES TOLD THE EMBASSY OFFICER THAT WA CONSIDERED ANYTHING SHORT OF APPROVAL TO LAND FULLYLOADED PLANES LIMITED OFFICIAL USE

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AS DISCRIMINATORY. HE SHOWED LITTLE INTEREST IN MEETING WITH POLISH OFFICIALS, SAYING THAT HE PREFERRED TO KEEP COMMUNICATIONS AT THE GOVERNMENT LEVEL AND THAT "GOVERNMENT PRESSURE" WAS THE ONLY THING THE POLES UNDERSTOOD. HUGHES SAID THE NACA IN ITS MARCH 31 LETTER TO THE CAB AND THE DEPARTMENT HAD REQUESTED THAT ALL LOT CHARTERS BE PLACED ON A PRIOR-APPROVAL BASIS. HE SAID THIS COULD RESULT IN DENIAL OF LOT APPLICATIONS AND ASKED THAT WE UNDERSCORE THIS POINT WHEN TALKING WITH THE POLES.

5. THE CCAA'S LETTER OF MARCH 26 TO THE EMBASSY (REF B) EXCLUDED THE POSSIBILITY OF SPECIAL PROCEDURES FOR CUSTOMS CLEARANCE (PARA 5 OF REF A). ZYLICZ SAID THAT AN INTERAGENCY COMMITTEE HAD, AT THE EMBASSY'S REQUEST, REVIEWED THE POSSIBILITY OF WA'S PAYING EXTRA COSTS. THE DECISION WAS NEGATIVE. HE CITED THE PRECEDENT EFFECT, THE LACK OF MANPOWER TO PERFORM CUSTOMS AND IMMIGRATION FUNCTIONS, AND THE PROBLEMS OF

A STOP-GAP EFFORT TO LET WA PAY EXTRA COSTS, AS JUSTIFICATIONS. THE LETTER FROM THE CCAA ALSO EXCLUDES THE POSSIBILITY OF PHASED DEPLANING OF PASSENGERS BECUASE OF THE PRECEDENT EFFECT AND BECAUSE IT "WOULD LOWER THE QUALITY OF SERVICE" AT OKECIE.

6. WE POINTED OUT TO ZYLICZ THAT PHASED DEPLANING WAS AN ALTERNATIVE USED IN THE US AND ONE WHICH WOULD BE ACCEPTABLE TO WA. HE REPLIED THAT IT WOULD BE DIFFICULT TO REVERSE THE INTERAGENCY DECISION, BUT AGREED THAT THIS ALTERNATIVE MIGHT BE WORTHY OF FURTHER DISCUSSION.

7. ZYLICZ SAID INFORMATION ON THE TOTAL PROGRAM FOR CHARTER FLIGHTS USING OKECIE WOULD BE SENT TO THE EMBASSY SHORTLY. HE SAID IT WAS DIFFICULT TO COMPILE THIS LIST SINCE MOST CARRIERS HAD NOT SUBMITTED FINAL SCHEDULES LIMITED OFFICIAL USE

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WITH ARRIVAL AND DEPARTURE INFORMATION FOR THE SUMMER MONTHS.

8. COMMENT: AN EARLY SOLUTION IN FAVOR OF WA SEEMS UNLIKELY AT THIS POINT. BOTH SIDES SEEM CONVINCED THAT THE OTHER IS ACTING IN BAD FAITH, AND THE LACK OF DIRECT COMMUNICATION BETWEEN THEM IS NOT HELPING. WE BELIEVE THAT THIS CASE REVOLVES AROUND AND HONEST DISAGREEMENT AS TO WHAT CONSITUTES DISCRIMINATORY OR EXCEPTIONAL TREATMENT UNDER THE BILATERAL AGREEMENT. WE ARE NOT SURE WHICH ARGUMENT IS MORE CORRECT, AND IT MAY BE DIFFICULT TO DISTINGUISH BETWEEN THE SHADES OF GRAY IN THIS CASE. THE RELEVANT FACTS AS WE SEE THEM ARE GIVEN BELOW.

9. WE ARE UNCLEAR AS TO THE NATURE OF PROCEEDINGS WHICH WILL BE FOLLOWED FROM THIS POINT. WE HOPE THAT ANY REVIEW WOULD ALLOW THE POLES TO DISCUSS THE PROBLEM WITH WASHINGTON AGENCIES BEFORE DENIALS OR OFFICIAL THREATS OF DENIAL OF LOT CHARTERS ARE MADE. THIS COULD BE DONE BY CALLING FOR CONSULTATIONS UNDER ARTICLE 12 OF THE BILATERAL AIR TRANSPORT AGREEMENT. WE WOULD LIKE TO BE ABLE TO APPRISE THE POLES AS SOON AS POSSIBLE OF THE LIKELY PROCEDURES TO BE FOLLOWED.

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10. OUR COMMENTS ON THE EXTENT OF CONGESTION AT OKECIE AND OTHER FACTORS FOLLOW. THE AIRPORT TERMINAL IS DEFINITELY CONGESTED AND, DURING PEAK TRAFFIC HOURS, APPROACHES MADHOUSE PROPORTIONS DUE TO ITS POOR PHYSICAL LAYOUT. WE ARE NOT IN A POSITION TO COMMENT ON THE ABILITY TO SERVICE LARGER AIRCRAFT, BUT, FROM WA'S COMMENTS, THIS SHOULD NOT POSE UNSURMOUNTABLE PROBLEMS. THE TERMINAL PROBLEMS ARE UNDOUBTEDLY A MAJOR CONCERN FOR THE POLISH AUTHORITIES. FROM THIS PERSPECTIVE, THEIR DECISION LAST SUMMER THAT LARGE-CAPACITY PLANES WOULD ADD FURTHER TO THIS BUDEN AND SHOULD THEREFORE NOT BE ALLOWED SEEMS UNDERSTANDABLE.

11. THIS DOES NOT MEAN, HOWEVER, THAT OKECIE COULD NOT HANDLE THE THREE WA CHARTERS OF 250 PASSENGERS EACH IF THEY ARRIVED AND DEPARTED DURING EARLY-MORNING HOURS. THERE WILL BE SIX OR MORE SCHEDULED FLIGHTS IN ONE-HOUR PERIODS DURING MID-DAY ACCORDING TO THE SCHEDULE PUBLISHED FOR APRIL AND MAY. (THE EMBASSY WILL SEND THE DEPARTMENT A TABULATION OF USE OF OKECIE BY SCHEDULED FLIGHTS). THE CONGESTION RESULTING FROM THE WA FLIGHTS IF THEY LANDED AT OFF HOURS WOULD, THEREFORE, PROBABLY NOT EXCEED THAT OCCURRING DURING PEAK TRAFFIC.

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12. THE POLES BELIEVE, HOWEVER, THAT THEY COULD NOT CLOSE THE DOOR IF IT WERE ONCE OPENED FOR WA. THE CCAA CONSIDERS THE PRESENT TRAFFIC LEVELS AT OKECIE INSUPPORTABLE AND CAN NO DOUBT SHOW THAT CURRENT USE FAR EXCEEDS THAT OF THE DESIGNED CAPACITY OF THE FACILITIES.

13. THERE IS OBVIOUSLY AN ELEMENT OF SELF-INTEREST INVOLVED IN THE POLISH SOLUTION TO THE PROBLEM. LOT DOES NOT HAVE LARGE-CAPACITY PLANES AND NO DOUBT BELIEVES IT WOULD BE AT A COMPETITIVE DISADVANTAGE IF OTHER CARRIERS COULD USE THEM ON A LARGE SCALE. AS STATED REF A, THE 190-PASSENGER CEILING IS THEREFORE CONVENIENT FOR LOT. CCAA OFFICIALS HAVE SAID THEY WANT TO PERMIT LARGE-CAPACITY CHARTER FLIGHTS TO OKECIA IN 1978. IT WOULD SEEM, THEREFORE, THAT THE POLES ARE NOT MERELY TRYING TO PURSUE COMMERCIAL ADVANTAGE THROUGH DENIAL OF THE WA APPLICATIONS. WE MIGHT ASK THE CCAA FOR A MORE FORMAL STATEMENT OF ITS PLANS FOR LARGE-CAPACITY CHARTERS IN 1978.

14. WE DO NOT KNOW WHETHER THE FLEETS OF OTHER US AND THIRD-COUNTRY CHARTER FIRMS ARE NORMALLY LIMITED TO STRETCH DC-8S OR LARGER AIRCRAFT, AS IS THE CASE FOR WA. IF THIS IS TRUE, THEN THE POLISH APPROACH MIGHT BE DISCRIMINATORY AGAINST CHARTER OPERATIONS IN GENERAL. THE POLES EMPHASIZE THAT ANY FIRM CAN FLY CHARTERS WITHIN THE CAPACITY LIMITATIONS ESTABLISHED. THEY BELIEVE THAT MOST CHARTER OPERATORS CAN COMPLY WITH WHAT THEY CONSIDER A TEMPORARY REQUIREMENT.

15. ONE POSSIBLE COMPLICATING FACT IS THAT THE POLES HAVE ALREADY GIVEN PAN AM PERMISSION IN PRINCIPLE TO LAND ONE CHARTER DURING AFTERNOON RUSH HOURS. PAN AM HOPES TO BE ABLE TO FLY A SECOND CHARTER DURING LATE EVENING HOURS ON SOME DAYS, BUT DOESN'T KNOW IF THIS WILL BE ACCEPTABLE TO THE CCAA.

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16. BOTH WA AND THE CCAA CITE THE LACK OF ANY MENTION IN THE BILATERAL AIR TRANSPORT AGREEMENT OF PERMISSIBLE AIRCRAFT TYPES FOR CHARTERS AS SUPPORT FOR THEIR POSITION. THE SILENCE OF THE AGREEMENT ON THIS POINT MIGHT BE GOOD GROUNDS FOR CALLING FOR CONSULTATIONS. WE MIGHT ALSO WISH TO CONSIDER PURSUING AN AGREEMENT ON CHARTERS SUCH AS WAS MENTIONED DURING THE NEGOTIATIONS LAST JUNE.

17. WE UNDERSTAND THAT A FORMAL REVIEW MAY BE REQUIRED UNDER CAB PROCEDURES, AND THE POLES WOULD NOT CONSIDER THIS INAPPROPRIATE. WE HOPE THAT CONCRETE ACTION AGAINST LOT CHARTERS, SUCH AS DENIAL OR REVOCATION OF APPLICATIONS, CAN BE AVOIDED UNTIL THE POLES HAVE A CHANCE TO MAKE THEIR CASE. POSTPONEMENT OF DECISIONS ON APPLICATIONS WOULD PROBABLY BE NATURAL UNTIL THE

MATTER IS CLARIFIED. WE CAN EXPECT THE POLES TO MATCH
US STEP FOR STEP IN ANY OFFICIAL ACTIONS. THE LOCAL
PAN AM REPRESENTATIVE BELIEVES THE POLES WOULD NOT
FLINCH AT THE PROSPECT OF A SIGNIFICANT REDUCTION IN
CHARTER FLIGHTS SINCE THEY PREFER TO SEE MORE OF THE
TRAFFIC CARRIED ON REGULARLY SCHEDULED FLIGHTS.

18. IF WE HAVE TO GET TOUGH ON THIS ISSUE, WE SHOULD
NOT DO SO PRECIPITOUSLY. SOME OF OUR OTHER INTERESTS,
AND POSSIBLY THOSE OF WA, COULD OTHERWISE SUFFER.
THERE MIGHT BE OTHER, MORE ATTRACTIVE POSSIBILITIES
FOR WA BEYOND THESE THREE FLIGHTS. WE ARE THINKING
IN PARTICULAR ABOUT AGREEMENTS FOR OPERATING IN 1978
AND BEYOND. THERE IS ALSO STILL A FLICKER OF HOPE THAT
ARRANGEMENTS COULD BE CONCLUDED FOR PHASED CUSTOMS
CLEARANCE OF FULLY LOADED WA CHARTERS. THIS WOULD NOT
COME EASILY, AND IT WILL PROBABLY NOT HAPPEN AT ALL
UNLESS WA TAKES UP THE MATTER DIRECTLY WITH THE CCAA.
WE BELIEVE THE POLISH INTERAGENCY REVIEW FOCUSED ON OTHER
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POSSIBILITIES, SUCH AS LIMITS ON CAPACITY OF PAYMENT OF
EXTRA COSTS, AND DISCARDED PHASED CLEARANCE AS ONE OF THE
LEAST DESIRABLE ALTERNATIVES.
DAVIES

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Message Attributes

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TAGS: EAIR, PL, WORLD AIRWAYS
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